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EXAMINER

VAN DOREN, BETH

ART UNIT	PAPER NUMBER
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3623

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/444,889	Applicant(s) MIKURAK, MICHAEL G.	
	Examiner BETH VAN DOREN	Art Unit 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18,22,28 and 32-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18,22,28 and 32-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20071026</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a final office action in response to communications received 11/19/2007. Claims 32, 36, 38-42, 44, and 50-54 have been amended. Claims 18, 22, 28, and 32-55 are pending.

Response to Amendment

2. Applicant's amendments to the claims are sufficient to overcome the 35 USC 112, second paragraph, rejections set forth in the previous office action. However, based on the current amendments, new 35 USC 112, second paragraph, rejections have been established below.

Response to Arguments

3. Applicant's arguments with regards to the rejections based on Sekizawa (U.S. 6,430,711) in view of Peterson et al. (U.S. 6,324,522) have been fully considered, but they are not persuasive. In the remarks, Applicant argues that (1) Sekizawa does not teach or suggest maintenance and service in a network-based supply chain environment and the ability to monitor for maintenance is not directed towards the supply chain environment, (2) Sekizawa does not teach or suggest the receipt of notices and requests for maintenance and services, specifically because in the present claims provider environment users, such as service provider advertising available resources for maintenance, recommend when maintenance should be performed and consumer environment users request maintenance and service as needed, (3) Sekizawa does not teach or suggest a provider user being able to recommend maintenance and service or the functionality of an e-commerce supply chain manager which can automatically perform these features and manage maintenance and service according to notices, requests, supply, demand, and a managed schedule, (4) Peterson does not teach or suggest management of maintenance and

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service requests occurring between external consumers and service providers, and (5) Peterson does not teach or suggest management of service requests and service actions.

In response to argument (1), Examiner respectfully disagrees. Examiner notes that the supply chain environment of the claims is a recitation of an intended use. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. The preamble of the current claim recites “maintaining and servicing a network-based commerce supply chain environment”. The claim recites maintaining and servicing a network-based commerce supply chain environment, an e-commerce supply chain manager, and performing maintenance and service of the e-commerce supply chain environment. In each instance, the fact that the environment is a supply chain environment has no effect on the functionality of servicing the network. Further, in the broadest reasonable interpretation, a supply chain is the organizations, people, activities, etc. that facilitate moving a product or service from a supplier to a customer. In Sekizawa, the network facilitates a supplier providing services to a customer. See at least See column 4, lines 5-25 and 40-62, column 7, lines 35-50, and column 8, lines 1-7.

Further, Peterson et al. expressly discloses a network based supply chain environment. See column 1, line 60-column 2, line 5, column 3, lines 25-35, column 4, lines 15-32 and 43-55, column 5, line 45-column 6, line 5, which discloses supply and demand information communicated via the network based system.

In response to argument (2), Examiner respectfully disagrees. First, Sekizawa teaches that users recommend maintenance and service using the network in at least column 2, line 50-

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column 3, line 25, column 4, lines 50-65, column 5, lines 40-50, and column 6, lines 55-65.

Sekizawa further discloses a second user requesting maintenance and service via the system. See figure 28 and column 2, line 50-column 3, line 28, column 4, line 50-column 5, line 10 and 40-50, and column 6, lines 1-6 and 55-65, column 7, lines 25-50, and column 8, lines 1-17.

As for the applicant's arguments that Sekizawa does not teach "provider environment users, such as service provider advertising available resources for maintenance, recommend when maintenance should be performed and consumer environment users request maintenance and service as needed", it is noted that the features upon which applicant relies (i.e., provider environment users, such as service provider advertising available resources for maintenance, recommend when maintenance should be performed and consumer environment users request maintenance and service as needed) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to argument (3), Examiner respectfully disagrees. Sekizawa teaches that users recommend maintenance and service using the network in at least column 2, line 50-column 3, line 25, column 4, lines 50-65, column 5, lines 40-50, and column 6, lines 55-65. Specifically, when an abnormal state is acknowledged by a provider user (operator, for example), the provider user notifies the consumer user about suggested maintenance for the network based machine.

As for the applicant's arguments that Sekizawa does not teach "e-commerce supply chain manager which can **automatically** perform these features", it is noted that these features upon which applicant relies are not recited in the rejected claim(s). Although the claims are

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interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Sekizawa does teach these features being performed via the manager, as asserted in the above arguments and in the art rejections below, specifically with respect to claim 38.

In response to argument (4), Examiner reminds applicant that Peterson was relied on to teach planning supply and demand of manufacturer offerings within the network based supply chain environment based upon offering availability within the e-commerce supply chain environment and managing notices and requests for maintenance according to demand and supply of manufacturer and service provider offerings. Peterson was further relied on to teach providing maintenance and service for the network-based supply chain environment, including updates and data scrubbing. Peterson was not specifically relied upon to disclose management of maintenance and service requests occurring between external consumers and service providers. Rather, Sekizawa was relied on to disclose management of maintenance and service requests occurring between provider and consumer users, as discussed above with respect to arguments (2)-(3). Further, the claims do not recite that the consumers are external consumers, but rather that they are part of the network environment.

In response to argument (5), Examiner respectfully disagrees. First, broadly, Sekizawa was relied on to teach the management of service requests, with Sekizawa teaching receiving and scheduling such requests in column 2, line 50-column 3, line 28, column 4, line 50-column 5, line 10 and 40-50, and column 6, lines 1-6 and 55-65, column 7, lines 25-50, and column 8, lines 1-17. Peterson was mainly relied on to disclose managing notices and requests for maintenance **according to demand and supply** of manufacturer and service provider offerings. Peterson

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teaches that manufacturers manage orders using a network based system, where manufactures plan offerings inventory based on the supply and demand information communicated via the network based system. See column 1, line 60-column 2, line 5, column 3, lines 25-35, column 4, lines 15-32 and 43-55, column 5, line 45-column 6, line 5. Thus, Peterson was brought in to teach the supply and demand considerations of supplying maintenance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 18, 22, 28, and 32-55 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 38 recites in steps (c) and (d) that demand and supply is planned for a manufacturer and service provider offering based upon offering availability, as well as managing notices and requests for maintenance and service according to the demand and supply of manufacturer and service provider offerings.

Steps (a) and (b) recite that a plurality of notices are received from provider users and a plurality of requests are received from consumer users. Step (e) recites that maintenance and service is scheduled based on the notices being matched to the requests of consumers.

It is unclear how steps (c) and (d) relate to steps (a), (b), and (e). Specifically, it is unclear how the service provider of step (c) relates to the provider of step (a). Further, it is unclear how the offering availability of step (c) and the managing of notices according to

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demand and supply of offerings of step (d) relate to the scheduling of maintenance and service in step (e). Specifically, what effect does managing notices and requests in step (d) have on the scheduling of such notices and requests in step (e). Thus, claim 38 seems to be incomplete, omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps relate to the connection between the manufacturer and service provider offerings and the scheduling occurring between the provider users and the consumer users. Clarification is required.

Claims 44 and 50 recite substantially similar limitations to claim 38 and therefore contain the same deficiencies. Clarification is required.

Claims 18, 22, 28, 32-37, 39-43, 45-49, and 51-55 depend from claims 38, 44, and 50 and do not remedy the deficiencies set forth above. Therefore, claims 18, 22, 28, 32-37, 39-43, 45-49, and 51-55 contain the same deficiencies. Clarification is required.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 18, 22, 28, and 32-38, 40-44, 46-50, and 52-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sekizawa (U.S. 6,430,711) in view of Peterson et al. (U.S. 6,324,522).

As per claim 38, Sekizawa discloses a method for maintaining and servicing a network-based commerce supply chain environment, comprising:

(a) receiving at an e-commerce manager from a plurality of provider environment users a plurality of notices for recommended maintenance and service (See column 2, line 50-column 3, line 25, column 4, lines 50-65, column 5, lines 40-50, and column 6, lines 55-65, wherein users recommend maintenance and service using the network);

(b) receiving at the e-commerce manager from a plurality of consumer environment users a plurality of requests for maintenance and service (See figure 28 and column 2, line 50-column 3, line 28, column 4, line 50-column 5, line 10 and 40-50, and column 6, lines 1-6 and 55-65, column 7, lines 25-50, and column 8, lines 1-17, wherein the second framework user requests maintenance and service via the system);

(d) and (e) matching provider environment users with consumer environment users and scheduling maintenance and service at the manager in a managed schedule based on the plurality of notices from the plurality of provider environment users matched to the plurality of requests from the plurality of consumer environment users (See column 2, line 50-column 3, line 25, column 4, lines 50-65, column 5, lines 40-50, column 6, lines 55-65, column 7, line 59-column 8, line 36, wherein maintenance and service is scheduled using the requests and notices received via the system);

(f) transmitting the managed schedule for maintenance and service to the plurality of users who requested or recommended maintenance from the e-commerce manager (See figure 28 and column 4, lines 50-65, column 5, lines 40-60, and column 6, lines 55-65, column 8, lines 1-

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36, wherein the scheduling is made known to the users who recommended the maintenance via a phone call);

(g) performing maintenance and service of the e-commerce supply chain environment based on the schedule (See column 4, lines 5-25 and 40-62, column 7, lines 35-50, and column 8, lines 1-7, wherein maintenance is performed. See also figure 20 and column 2, line 50-column 3, line 25 and 45-55, column 5, lines 40-50, and column 6, lines 55-65, wherein other maintenance is performed).

However, Sekizawa does not expressly disclose and Peterson et al. discloses:

(c) planning supply and demand of manufacturer and service provider offerings based upon offering availability within the e-commerce supply chain environment (See column 1, line 60-column 2, line 5, column 3, lines 25-35, column 4, lines 15-32 and 43-55, column 5, line 45-column 6, line 5, wherein manufactures plan offerings inventory based on the supply and demand information communicated via the network based system. See column 1, line 60-column 2, line 5, column 3, lines 25-35, column 4, lines 15-32 and 43-55, column 5, line 45-column 6, line 5, wherein the manufacturer manages orders and timing of orders using the network based system); and

(d) managing notices and requests for maintenance and service according to demand and supply of manufacturer and service provider offerings (See column 1, line 60-column 2, line 5, column 3, lines 25-35, column 4, lines 15-32 and 43-55, column 5, line 45-column 6, line 5, wherein the manufacturer manages orders and timing of orders using the network based system).

Peterson et al. further discloses (c) providing maintenance and service for the network-based supply chain environment, including updates and data scrubbing (See figures 4 and 5,

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column 6, lines 40-46, column 46, line 3-column 47, line 5, which discloses network maintenance performed on the network based supply chain management system of the vendors and manufacturers).

Both Sekizawa and Peterson et al. are concerned with maintenance and service, as communicated via the network. Peterson et al. teaches a network based supply chain system where manufacturers manage orders for vendors and network maintenance is performed. Sekizawa discloses maintenance and service in an e-commerce environment. It would have been obvious to one of ordinary skill in the art at the time of the invention to include the manufacturer features of Peterson et al. in the maintenance functions taught by Sekizawa in order to more efficiently integrate all information in an information network that distributes information, such as manufacturer and inventory information and maintenance information, amongst the users. See column 1, line 60-column 2, line 7, and column 46, line 3-column 47, line 5, of Peterson et al.

As per claim 18, Sekizawa teaches performing load-balancing services that initiate and stop processes as utilization levels vary in the e-commerce supply chain (See column 6, lines 10-35, which discloses load balancing).

As per claim 32, Sekizawa teaches wherein the step of performing scheduled maintenance and service includes indexing received feedback from environment users (See figures 4, 9-12, and 30, column 7, lines 59-67, column 19, lines 35-45, column 20, line 40-column 21, line 10, wherein the user is given a change request, the system has a mail box for receiving change requests, and the system saves this data. See also column 22, lines 25-55, column 23, lines 1-30, column 33, lines 35-65, column 34, line 55-column 35, line 25).

As per claim 40, Sekizawa teaches wherein the step of performing maintenance and service of the e-commerce supply chain environment comprises synchronizing data stored separately from the e-commerce supply chain environment with data stored in the e-commerce supply chain environment (See column 4, lines 5-25 and 40-62, column 7, lines 35-50, and column 8, lines 1-7, wherein the external, global, data and the local data is synchronized).

As per claim 41, Sekizawa teaches wherein the step of performing maintenance and service of the e-commerce supply chain environment comprises optimizing at least one operation of the environment from the group consisting of server processes, disk space, memory availability, CPU utilization access time to a server, and a number of connections in a network-based supply chain for efficient system-operation and problem prevention (See figure 20 and column 2, lines 50-67, column 3, lines 1-25 and 45-55, column 5, lines 40-50, and column 6, lines 55-65, wherein at least one operation of the environment is monitored for optimization, including memory availability).

As per claim 42, Sekizawa teaches wherein the step of performing maintenance and service of the e-commerce supply chain environment comprises sending feedback response requests to the plurality of environment users of the e-commerce supply-chain environment (See figures 4, 9-12, and 30, column 7, lines 59-67, column 19, lines 35-45, column 20, line 40-column 21, line 10, column 22, lines 25-55, column 23, lines 1-30, column 33, lines 35-65, column 34, line 55-column 35, line 25, wherein the user is given a change request and there is a mail box for receiving change requests. Also, the user can input information requested by the system, such as error information, status information, customer information, etc.).

As per claim 43, Sekizawa teaches searching the data stored in the e-commerce supply chain environment prior to synchronization (See column 4, lines 5-25 and 40-62, column 7, lines 35-50, and column 8, lines 1-7, wherein the status data of the local machines are searched prior to the synchronization).

As per claim 33, Sekizawa teaches wherein the data stored in the e-commerce supply-chain environment is indexed according to a profile for each environment user's profile (See figures 4, 9-12, and 30, column 7, lines 59-67, column 19, lines 35-45, column 20, line 40-column 21, line 10, wherein information is entered in the system and saved based on the user profile. For example, the user is given a change request, the system receives change requests, and the system saves this data with the profile of the user. See also column 22, lines 25-55, column 23, lines 1-30, column 33, lines 35-65, column 34, line 55- column 35, line 25).

Claims 44, 22, 34, 46-49, and 35 recite equivalent limitations to claims 38, 18, 32, 40-43, and 33, respectively, and are therefore rejected using the same art and rationale as applied above.

Claims 50, 28, 36, 52-55, and 37 recite equivalent limitations to claims 38, 18, 32, 40-43, and 33, respectively, and are therefore rejected using the same art and rationale as applied above.

9. Claims 39, 45, and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sekizawa (U.S. 6,430,711) in view of Peterson et al. (U.S. 6,324,522) and in further view of Haluska (U.S. 5,638,519).

As per claim 39, Sekizawa teaches wherein the step of performing maintenance and service of the e-commerce supply chain environment comprises updating internal data items stored in the environment (See column 4, lines 5-25 and 40-62, column 7, lines 35-50, and column 8, lines 1-7, wherein the internal data items of the local framework are updated).

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However, Sekizawa does not expressly disclose updating internal data items selected from the group consisting of merchandising content, currency exchange rates, tax rates, and pricing information.

Peterson et al. discloses providing maintenance and service for the network-based supply chain environment, including updates and data scrubbing (See figures 4 and 5, column 6, lines 40-46, column 46, line 3-column 47, line 5, which discloses network maintenance performed on the network based supply chain management system of the vendors and manufacturers).

However, Peterson et al. does not expressly disclose and Haluska discloses updating internal data items selected from the group consisting of merchandising content, currency exchange rates, tax rates, and pricing information (See figures 4-6, column 3, lines 25-40 and 45-65, column 5, lines 1-25, column 7, lines 35-60, and column 11, lines 35-65, wherein pricing information is updated);

Sekizawa and Peterson et al. are combinable for the reasons set forth above with respect to at least claim 38. Further, both Haluska and Sekizawa disclose manufacturers providing services and supplies to users of the network. Sekizawa further discloses the ability to update internal information such as the customer information. It is well known in marketing and sales to customize merchandising content and/or pricing information to the customer and the customer's information. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to update at least the merchandising content and/or the pricing information based on this change in customer information in order to more efficiently meet the needs of the customers of the system by maintaining universal and updated information

accessible by all users of the network that correctly matches the needs/information about the customers. See column 2, lines 50-67, of Haluska and column 2, lines 45-67, of Sekizawa.

Claim 45 recites equivalent limitations to claim 39 and is therefore rejected using the same art and rationale as applied above.

Claim 51 recites equivalent limitations to claim 39 and is therefore rejected using the same art and rationale as applied above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is 571-272-6737. The examiner can normally be reached on M-F, 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

bvd
January 30, 2008

/Beth Van Doren/
Primary Examiner, Art Unit 3623